THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3745 of 2007

27.2.2007

Between:

Mysannagudem Gram Panchayat, Mysannagudem,
Jangareddy Gudem Mandal, West Godavari District,
Represented by its Sarpanch, Ch.Nageswara Rao,

... Petitioner

AND

The District Collector, West Godavari District, Eluru
And others

... Respondents

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WRIT PETITION No.3745 of 2007

ORDER:

Mysannangudem Gram Panchayat (Jangareddygudem Mandal in West Godavari District), the petitioner herein, is seeking a writ of Mandamus declaring the action of the respondents in trying to construct Gram Panchayat building in an extent of Acs.0.03 situated in R.S.No.155/4 of the Village as illegal, arbitrary and contrary to the provisions of A.P. Panchayat Raj Act, 1994 (the Act, for brevity). A consequential relief is also sought directing the respondents to permit the Gram Panchayat to construct building over an extent of Acs.0.05 in R.S.No.158/2 of the Village.

The case of the petitioner is that on 29.9.2006, the Gram Panchayat passed a resolution to construct Gram Panchayat building in R.S.No.158/2 admeasuring Acs.0.05, which was donated by Pulapakula Satyanarayana, and utilize the funds provided under SGRY. Representations were made on 13.1.2007 and on 07.2.2007 requesting permission for construction of the building, in vain. However, respondents 5 and 6 are now proposing to construct the building in R.S.No.155/4, which is not convenient for construction, and that the same is being used by the villagers as community land (cattle pound). The petitioner contends that the action of respondents 5 and 6 is contrary to the provisions of Sections 74 and 121 of the Act.

Learned Counsel for the petitioner submits that the land in survey No.155/4 is at the extreme end of the village, which is being used as a community land (cattle pound) and the same is not convenient for Gram Panchayat office. He also submits that the land admeasuring Acs.0.05 in R.S.No.158/2 donated by Pulapakula Satyanarayana, is more convenient and suitable for Gram Panchayat office. The respondents, without obtaining permission under Section 121 of the Act and ignoring the resolutions passed by the Gram Panchayat, are

constructing building, which is illegal and contrary to the provisions of the Act. He also placed reliance in **Eguvakamma Kandriga Gram Panchayat v District Collector, Chittoor**[1] and **Armoor Gram Panchayat, Nizamabad v Government of A.P.**[2]

Learned Government Pleader for Panchayats placed reliance on the miscellaneous Rules regarding proceedings of Gram Panchayats and Committees Orders (the Rules, for brevity) promulgated by the Government vide their orders in G.O.Ms.No.227, dated 13.4.1995, and submits that there is no illegality in the action of the respondents as alleged by the petitioner. Secondly, he submits that in a matter of this nature, a writ petition would not lie.

Rule 1 of the Rules and annexure appended to the Rules read as under.

> 1. Every Gram Panchayat shall provide an office in such a place and subject to such conditions as may be specified Annexure appended to these rules and as may be specified by the Government by a general or special order.
>
> **Annexure**
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> 1. Every Gram Panchayat shall provide a building for location of its office by constructing one by itself or by taking it one on rent or free of rent and its office shall be located therein.
> 2. The building referred to above shall be:
> (i) as far as possible in the center of the main village;
> (ii) a place accessible to all the members of the Gram Panchayat and to all castes and communities.
> 3. The Office of the Gram Panchayat once located in a building not owned by the Gram Panchayat shall not be shifted to any other building not owned by the Gram Panchayat except upon a specific resolution passed by the Gram Panchayat for the purpose, supported by not less than three fourths of the sanctioned strength and with the previous approval of the District Collector.
> 4. No building belonging to the Sarpanch, Upa-Sarpanch and members of their relations shall be used for the office of the Gram Panchayat without the previous approval of the District Collector concerned.
> **Explanation:-** In the determination of three fourths of the sanctioned strength of the Gram Panchayats under this rule, any fraction arrived at shall be ignored.
> **Note:** The District Collector may, at his discretion in deserving cases, relax as any of the conditions stipulated above.

The petitioner has not placed any material before this Court to show that the construction of building is in contravention of Rule 1 of

the Rules and conditions laid down in Annexure to the Rules. Secondly as to the place of construction being a question of fact cannot be adjudicated in a writ petition. Further, it is well settled that the location of Offices or District/Mandal/Panchayat Headquarters are the matters, which ordinarily lack adjudicative disposition and, therefore, beyond judicial review. Except alleging that the respondents 5 and 6 are proposing to construct Gram Panchayat building ignoring the resolution passed by the Gram Panchayat, no satisfactory material is placed before this Court in support of such apprehension. Learned Counsel for the petitioner, however, submits that the petitioner Gram Panchayat has already made representations to the second respondent. A perusal of the same would show that this writ petition is filed even before a decision is taken by the respondents 1 and 2. Therefore, this Court observes that the petitioner may approach the respondents 1 and 2, to whom representations are made, for redressal.

The writ petition, with the above observation, is accordingly disposed of. No costs.

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(**V.V.S.RAO,J**)

February 27, 2007.
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[1] 2004(2) ALT 317 (DB)

[2] 2006(6) ALD 180